

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

D. Shilliday, et al.

Serial No.: 10/560,022

Filed: August 17, 2006

For: DISTRIBUTED CHARGE
INFLATION SYSTEM

Group Art Unit: 3641

Examiner: J. Bergin

February 22, 2011

Attorney Docket No. 53982/323801

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

I hereby certify that this correspondence is being transmitted to
the U.S. Patent and Trademark Office via EFS-Web on
February 22, 2011

Name: Sandee Harvot

Signature: Sandee Harvot

**RESPONSE TO AND REQUEST FOR WITHDRAWAL OF IMPROPER
NOTICE OF NON-COMPLIANT AMENDMENT**

Dear Sir:

This paper is submitted in response to the "Notice of Non-Compliant Amendment" (the "Notice") mailed February 3, 2011 in connection with the above-identified application. According to the Examiner, Applicants' "Response to Election-of-Species Requirement" of November 12, 2010 (the "Response") supposedly "is not fully responsive to the prior Office Action" because Applicants "have not formally indicated whether the election of species B is being made with traverse or without traverse." *No* such formal indication is required when response is made without traverse, however, causing Applicants to request that the Notice be withdrawn as improper.

Indeed, the Manual of Patent Examining Procedure *expressly confirms* the correctness of Applicants' Response. As noted in Section 818.03:

Election in reply to a requirement *may be made* either with or *without an accompanying traverse of the requirement*.

(Emphasis added.) Applicants elected in precisely this manner--"without an accompanying traverse of the requirement"--exactly as authorized by the M.P.E.P.

Informative is that the Examiner cites *no authority whatsoever* for his contention that Applicants must "formal[ly] indicat[e]" that they are *not* traversing the election requirement. This is because no such authority exists. Moreover, the Office Action requiring the election *itself* makes clear that "If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election *shall* be treated as an election without traverse." Why the Examiner failed to follow his own mandate is unknown; clear, however, is that the Response was entirely appropriate. Because Applicants did not (and do not) traverse the election requirement, Applicants reiterate their request that the improper Notice be withdrawn.

Conclusion

Applicants request that the Examiner allow claims 16-24 and that a patent containing these claims issue in due course.

OF COUNSEL:

Kilpatrick Townsend & Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309
(404) 815-6528

Respectfully submitted,



Dean W. Russell
Reg. No. 33,452
Attorney for the Assignee